IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2000 of 1991

with

SPECIAL CIVIL APPLICATION No 2728 to 2731 of 1991

with

SPECIAL CIVIL APPLICATION NO 2733 TO 2737 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DINESH MILLS LIMITED PUBLIC LIMITED CO.

Versus

SHRI KIRITBHAI C. PATEL

Appearance:

Mr. K.M. Patel for Petitioner No. 1

MR NR SHAHANI for Respondent No. 1

RULE SERVED for Respondent No. 2-11

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 02/09/2004

ORAL JUDGEMENT

Heard learned advocate Mr. K.M. Patel for the petitioners and Mr. Shahani for the respondents in this group of petitions. Learned advocate Mr. Patel submits that he will file Vakalatnama for the petitioners within ten days from today on behalf of the petitioners. This statement made by Mr. Patel has not been objected by M/s.Trivedi & Gupta.

In these petitions, the petitioner has challenged the order made by the Industrial Tribunal Baroda in Complaint NO. 75 of 1989 to 85 of 1989 dated 14th September, 1990 wherein the Tribunal has come to the conclusion that not to allow the respondents on duty amounts to change in service condition, therefore, the tribunal directed the petitioner to pay salary to the respondents with effect from 9th August, 1989. The Tribunal has also granted reinstatement of the respondents. This Court has passed the following interim order on 3rd July, 1991 :

"Rule. Interim stay of the operation of the award so far as back wages are concerned on the condition that the petitioner deposits before the Industrial Tribunal Baroda the amounts due and payable to the respondents subsequent to the period 19.10.89 within three weeks from today. On the petitioner depositing the said amounts, the respondents will have liberty to withdraw the same on furnishing security to the satisfaction of the Industrial Tribunal.

Mr. Trivedi appearing for the petitioner states that the petitioner will immediately permit the respondents to resume their work if they execute the bonds. Mr. Sahani appearing for the respondents states that the respondents are also ready to execute the bonds without prejudice to their contentions raised in these petitions. "

In view of the above interim order, amount in question has been deposited by the petitioner and the same has also been withdrawn by the respondents. These facts are not in dispute between the parties. Subsequently, the petitioner has terminated the service of the respondent which was the subject matter of challenge in Reference and ultimately, petition was filed

by the respondents before this court being special civil application no. 10233 of 1999 wherein this court (Coram : D.H.Waghela,J.) passed an order on 31st July, 2001. In the said petition, entire matter between the parties including the subject matter of these petitions has been settled and the settlement has been recorded by this court in aforesaid petition and ultimately in the said settlement, claim of the respondent has also been included by the respective parties and agreed to that. Therefore, considering the said settlement arrived at between the parties and recorded by this court in the said petition being SCA NO 10233 of 1999 dated 31st July, 2001, according to my opinion, except special civil application no. 2733 of 1991, other petitions of this group would not survive and the same are required to be disposed of as not surviving.

Learned advocate Mr. Patel submits that according to the instructions received by him, the respondent workman in Special Civil Application No. 2733 of 1991 has passed away and, therefore, he is not pressing Special Civil Application No. 2733 of 1991.

Accordingly, Special Civil Application No. 2733 of 1991 is disposed of as not pressed. Other petitions of this group are disposed of as not surviving. Rule in each of these petitions is discharged. Interim relief, if any, shall stand vacated with no order as to costs. Copy of the order of this COurt in SCA No. 10233 of 1999 dated 31.7.2001 is ordered to be taken on record of this petition.

(H.K. Rathod,J.)

Vyas